IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE M.N.KRISHNAN

THURSDAY, THE 20TH SEPTEMBER 2007 / 29TH BHADRA 1929

WP(C).No. 27691 of 2007(V)

OS.50/2006 of ADDL.SUB COURT, IRINJALAKUDA

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PETITIONER:

MADHUSOODANAN, S/O.PERULLIYIL RAMAN,
EDAMUTTAM, VALAPPAD, THRISSUR DT.

BY ADV. SRI.RENJITH THAMPAN
SMT.P.A.ANITHA

RESPONDENTS:

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1. N.RAMARAJ, S/O.R.NARAYANAN NAIDU,
KARUVELAKKULAM, P.O.KALLETTUMKARA,
THAZHEKKAD VILLAGE, MUKUNDAPURAM TALUK.

2. PREMAVATHY, W/O.R.NARAYANAN NAIDU, -DO-

3. SASEENDRAN, S/O.VELIYATH RAGHAVAN,
MANAVALASSERY VILLAGE, MUKUNDAPURAM TALUK.

4. SUSHAMA, W/O.MULLAKKAPARAMBIL VIJAYAN,
-DO-

BY

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 20/09/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

M.N.KRISHNAN, J

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W.P.(C) No. 27691 OF 2007

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Dated this the 20th day of September 2007

JUDGMENT

This writ petition is filed for setting aside Ext.P2 order. The plaintiff is the petitioner, who has applied for appointment of a Commissioner and the court below has rejected the same on the ground that it is not necessary. The suit is one for specific performance of a contract. Based on an agreement where the extent of the property as well as the centage value of the property are specifically mentioned. It is also the case of the plaintiff that in contravention of the terms of the agreement, respondents 1 and 2 had alienated the property in favour of respondents 3 and 4. Therefore he requests for issuance of a Commission for the purpose of identifying the property and to see the exact value of the property. I feel that both these points really did not arise for consideration because the plaintiff has entered into an agreement for sale with respondents 1 and 2 with respect to a scheduled property fixing the centage value. Wherever the property is situated and whatever may be the nature of the property, if the plaintiff is able to establish that he is ready and willing to perform the contract and

there has been an agreement and that respondents 1 and 2 have committed breach of contract, then the court is certainly having jurisdiction to grant a decree for specific performance.

I find no reason to interfere with the order passed by the Addl.Sub court, Irinjalakkuda in rejecting the application for issuance of a commission. Therefore the writ petition fails and the same is dismissed. Needless to say that the petitioner will be at liberty to adduce evidence which he wants to rely on for the purpose of proving his case.

M.N.KRISHNAN, JUDGE

Cdp/-